

§ 453.14

must be bonded be fixed "at the beginning of the organization's fiscal year * * * in an amount not less than 10 percentum of the funds handled by him and his predecessor or predecessors, if any, during the preceding fiscal year, but in no case more than \$500,000." If there is no preceding fiscal year, the amount of each required bond is set at not less than \$1,000 for local labor organizations and at not less than \$10,000 for other labor organizations or for trusts in which a labor organization is interested.

§ 453.14 The meaning of "funds."

While the protection of bonds required under the Act must extend to any actual loss from the acts of fraud or dishonesty in the handling of "funds or other property" (§ 453.7), the amount of the bond depends upon the "funds" handled by the personnel bonded and their predecessors, if any. "Funds" as here used is not defined in the Act. As in the case of "funds or other property" discussed earlier in § 453.7, the term would not include property of a relatively permanent nature such as land, buildings, furniture, fixtures, or property similarly held for use in the operations of the labor organization or trust rather than as quick assets. In its normal meaning, however, "funds" would include, in addition to cash, items such as bills and notes, government obligations and marketable securities, and in a particular case might well include all the "funds or other property" handled during the year in the positions occupied by the particular personnel for whom the bonding is required. In any event, it is clear that bonds fixed in the amount of 10 percent or more of the total "funds or other property" handled by the occupants of such positions during the preceding fiscal year would be in amounts sufficient to meet the statutory requirement. Of course, in situations where a significant saving in bonding costs might result from computing separately the amounts of "funds" and of "other property" handled, criteria for distinguishing particular items to be included in the quoted terms would prove useful. While the criteria to be applied in a particular case would depend on all the

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relevant facts concerning the specific items handled, it may be assumed as a general principle that at least those items which may be handled in a manner similar to cash and which involve a like risk of loss should be included in computing the amount of "funds" handled.

[30 FR 14926, Dec. 2, 1965]

§ 453.15 The meaning of funds handled "during the preceding fiscal year".

The funds handled by personnel required to be bonded and their predecessors during the course of a fiscal year would ordinarily include the total of whatever such funds were on hand at the beginning of the fiscal year plus any items received or added in the form of funds during the year for any reason, such as dues, fees and assessments, trust receipts, or items received as a result of sales, investments, reinvestments, or otherwise. It would not, however, be necessary to count the same item twice in arriving at the total funds handled by personnel during a year. Once an item properly within the category of "funds" had been counted as handled by personnel during a year, there would be no need to count it again should it subsequently be handled by the same personnel during the same year in some other connection.

§ 453.16 Funds handled by more than one person.

The amount of any required bond is determined by the total funds handled during a fiscal year by each "person" bonded, and any predecessors of such "person". The term "person", however, is defined in section 3(d) of the Act to include "one or more" of the various individuals or entities there listed, so that there may be numerous instances where the bond of a "person" may include several individuals. Wherever this is the case, the amount of the bond for that "person" would, of course, be based on the total funds handled by all who comprise the "person" included in the bond, without regard to the precise extent to which any particular individual might have handled such funds. This would be the situation, for example, in many cases of joint or group activity in the performance of a single function. It would also be true where

various individuals performed the same type of function for an organization, even though they acted independently of one another. There would, however, be no objection to bonding each individual separately, and fixing the amount of his bond on the basis of the total funds which he individually handled during the year.

§ 453.17 Term of the bond.

The amount of any required bond must in each instance be based on funds handled "during the preceding fiscal year," and must be fixed "at the beginning" of an organization's fiscal year—that is, as soon after the date when such year begins as the necessary information from the preceding fiscal year can practicably be ascertained. This does not mean, however, that a new bond must be obtained each year. There is nothing in the Act which prohibits a bond for a term longer than one year, with whatever advantages such a bond might offer by way of a lower premium, but at the beginning of each fiscal year during its term the bond must be in at least the requisite amount. If it is below that level at that time for any reason, it would then be necessary either to modify the existing bond to increase it to the proper amount or to obtain a supplementary bond. In either event, the terms upon which this could best be done would be left to the parties directly concerned.

FORM OF BONDS

§ 453.18 Bonds "individual or schedule in form".

(a) *General consideration.* In addition to such substantive matters as the personnel who must be bonded and the scope and the amount of the prescribed bonds, which have been discussed previously, the form of the bonds is the subject of a specific provision of section 502(a). Under this provision, a bond meeting the substantive requirements of the section may be either "individual or schedule in form." These terms are not specially defined and could be descriptive of a variety of possible forms of bonds. According to trade usage, an individual bond is a single bond covering a single named individual to a designated amount, and

bonds "schedule in form" may include either name schedule or position schedule bonds. A name schedule bond is typically a single bond covering a series or list of named individuals, each of whom is bonded separately to a designated amount. A position schedule bond is typically a single bond providing coverage with respect to any occupant or holder of one or more specified positions during the term of the bond, each office or position being covered to a designated amount. In a statute relating to trade or commerce, it is frequently helpful to consider whatever trade or commercial usages may have developed with respect to the statutory terms.⁹ References to individual, schedule and position schedule bonds may be found in other acts of Congress and indicate a clear awareness of trade usages and terminology in this field.¹⁰

(b) *Particular forms of bonds.* If the phrase "individual or schedule in form" is considered in light of the trade usages, section 502(a) at least permits bonds which are individual, name schedule or position schedule in form. Of course, section 502(a) does not require any particular type of individual or schedule bonds where different types exist or may be developed. It could not be said, for example, that a bond which schedules positions according to similarities in duties, risks, or required amounts of coverage is not "schedule in form" within the meaning of section 502(a) merely because the particular form of scheduling involved was not employed in bonds current at the time the section became law. A more specific illustration would be a bond scheduling shop stewards as a group because of the similar duties they perform in collecting dues, or members of an executive board as a group because of the fact that duties are imposed upon the board as such. A bond of this type would be "schedule in form" within the meaning of section 502(a) and, assuming adequacy of amount and coverage of all persons whom it is necessary to bond, such a bond would be in conformity with the

⁹See 2 Sutherland, *Statutory Construction* (3d ed. 1943) § 4919.

¹⁰Act of August 24, 1954, 68 Stat. 335, 12 U.S.C. 1766(g); Act of August 9, 1955, 69 Stat. 618, 6 U.S.C. 14.